

BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation)
Against:)

STEPHEN ANDREW LEVINE, M.D.)
Certificate No. A-22570)

No. 13-95-53779


Respondent)

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the
Division of Medical Quality as its Decision in the above-entitled matter.

This Decision shall become effective on August 4, 1997.

IT IS OR ORDERED August 1, 1997.

By: 
IRA LUBELL, M.D.
Chair
Division of Medical Quality

DANIEL E. LUNGREN, Attorney General
of the State of California
LAWRENCE A. MERCER,
Deputy Attorney General
California Department of Justice
50 Fremont Street, Suite 300
San Francisco, California 94105
Telephone: (415) 356-6259
Fax (415) 356-6257

Attorneys for Complainant

BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation)	Case No. 13-95-53779
Against:)	
)	OAH No. N1997050040
STEPHEN ANDREW LEVINE, M.D.)	
412 Red Hill Avenue)	STIPULATED SETTLEMENT
San Anselmo, CA 94960)	AND
)	DISCIPLINARY ORDER
Physician's and Surgeon's)	
Certificate No. A-22570,)	
)	
Respondent.)	

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-entitled proceedings that the following matters are true:

1. An Accusation in case number 13-95-53779 was filed with the Division of Medical Quality, of the Medical Board of California, Department of Consumer Affairs (the "Division") on February 25, 1997, and is currently pending against Stephen Andrew Levine (the "respondent").

2. The Accusation, together with all statutorily required documents, was duly served on the respondent and

1 respondent filed his Notice of Defense contesting the Accusation.
2 A copy of Accusation No. 13-95-53779 is attached as Exhibit "A"
3 and hereby incorporated by reference as if fully set forth.

4 3. The Complainant, Ron Joseph, is the Executive
5 Director of the Medical Board of California and brought this
6 action solely in his official capacity. The Complainant is
7 represented by the Attorney General of California, Daniel E.
8 Lungren, by and through Deputy Attorney General Lawrence A.
9 Mercer.

10 4. The respondent is represented in this matter by
11 Nossaman, Guthner, Knox & Elliott, Robert J. Sullivan, Esq., and
12 John P. Wagner, Esq., whose address is 915 L Street, Sacramento,
13 CA 95814.

14 5. The respondent and his attorneys have fully
15 discussed the charges contained in Accusation number 13-95-53779,
16 and the respondent has been fully advised regarding his legal
17 rights and the effects of this stipulation.

18 6. At all times relevant herein, respondent has been
19 licensed by the Medical Board of California under Physician's and
20 Surgeon's Certificate No. A-22570.

21 7. Respondent understands the nature of the charges
22 alleged in the Accusation and that, if proven at hearing, the
23 charges and allegations would constitute cause for imposing
24 discipline upon his license. Respondent is fully aware of his
25 right to a hearing on the charges contained in the Accusation,
26 his right to confront and cross-examine witnesses against him,
27 his right to the use of subpoenas to compel the attendance of

1 witnesses and the production of documents in both defense and
2 mitigation of the charges, his right to reconsideration, appeal
3 and any and all other rights accorded by the California
4 Administrative Procedure Act and other applicable laws.
5 Respondent knowingly, voluntarily and irrevocably waives and
6 gives up each of these rights.

7 8. For the purpose of resolving Accusation No. 13-95-
8 53779 without the expense and uncertainty of further proceedings,
9 respondent agrees that, if proven at a hearing, complainant could
10 establish a factual basis for the charges in the Accusation.
11 Respondent agrees to be bound by the Division's Disciplinary
12 Order as set forth below.

13 9. The admissions made by respondent herein are for
14 the purpose of this proceeding and any other proceedings in which
15 the Division of Medical Quality, Medical Board of California is
16 involved, and shall not be admissible in any other criminal or
17 civil proceedings. The disciplinary charges against respondent
18 do not arise from an invasive procedure and Section 16.01 of the
19 1996/97 Budget Act does not apply to this settlement.

20 10. The parties intend by this stipulation to resolve
21 the charges set forth in the Accusation as well as any
22 investigations pending or information known to the Division at
23 the time of execution of this Stipulation. Based on the
24 foregoing admissions and stipulated matters, the parties agree
25 that the Division shall, without further notice or formal
26 proceeding, issue and enter the following order:

27

1 this requirement upon receipt of proof within 60 days of the
2 effective date of this agreement that respondent has completed
3 the substantial equivalent.

4 3. **CONTROLLED DRUGS - MAINTAIN RECORD** Respondent shall
5 maintain a record of all controlled substances prescribed,
6 dispensed or administered by respondent during probation, showing
7 all of the following: 1) the name and address of the patient, 2)
8 the date, 3) the character and quantity of controlled substances
9 involved, and 4) the indications and diagnoses for which the
10 controlled substance was furnished.

11 Respondent shall keep these records in a separate file
12 or ledger, in chronological order, and shall make them available
13 for review by his practice monitor as well as for inspection and
14 copying by the Division or its designee, upon request.

15 4. **ORAL CLINICAL OR WRITTEN EXAM** Respondent shall take
16 and pass an oral clinical exam in addiction medicine,
17 psychopharmacology and prescribing practices administered by the
18 Division, or its designee. This examination shall be taken
19 within five (5) months after the effective date of this decision.
20 If respondent fails the first examination, respondent shall be
21 allowed to take and pass a second examination, which may consist
22 of a written as well as an oral examination. The waiting period
23 between the first and second examinations shall be at least three
24 (3) months. If respondent fails to pass the first and second
25 examination, respondent may take a third and final examination
26 after waiting a period of one (1) year. Failure to pass the oral
27 clinical examination within two (2) years after the effective

1 date of this decision shall constitute a violation of probation.
2 The respondent shall pay the costs of these examinations within
3 ninety (90) days of the administration of each exam.

4 If respondent fails the first examination, respondent
5 shall be suspended from the practice of medicine until a repeat
6 examination has been successfully passed, as evidenced by written
7 notice to respondent from the Division or its designee.

8 5. **MONITORING** Within thirty (30) days of the
9 effective date of this decision, respondent shall submit to the
10 Division or its designee for its prior approval a plan of
11 practice in which respondent's practice shall be monitored by
12 another physician in respondent's field of practice for at least
13 two years and continuing thereafter at the discretion of the
14 Division on the recommendation of the practice monitor. The
15 practice monitor shall provide quarterly reports to the Division
16 or its designee.

17 If the monitor resigns or is no longer available,
18 respondent shall, within fifteen (15) days, move to have a new
19 monitor appointed, through nomination by respondent and approval
20 by the Division or its designee.

21 6. **PRACTICE RESTRICTION** Respondent shall not engage in
22 the treatment or counseling of any person for a drug addiction
23 disorder until such time as respondent has completed the
24 Physician Prescribing Course and Oral Competency Examination
25 referred to above.

26 7. **OBEY ALL LAWS** Respondent shall obey all federal,
27 state and local laws, all rules governing the practice of

1 medicine in California, and remain in full compliance with any
2 court ordered criminal probation, payments and other orders.

3 8. **QUARTERLY REPORTS** Respondent shall submit
4 quarterly declarations under penalty of perjury on forms provided
5 by the Division, stating whether there has been compliance with
6 all the conditions of probation.

7 9. **PROBATION SURVEILLANCE PROGRAM COMPLIANCE** Respondent
8 shall comply with the Division's probation surveillance program.
9 Respondent shall, at all times, keep the Division informed of his
10 addresses of business and residence which shall both serve as
11 addresses of record. Changes of such addresses shall be
12 immediately communicated in writing to the Division. Under no
13 circumstances shall a post office box serve as an address of
14 record.

15 Respondent shall also immediately inform the Division,
16 in writing, of any travel to any areas outside the jurisdiction
17 of California which lasts, or is contemplated to last, more than
18 thirty (30) days.

19 10. **INTERVIEW WITH THE DIVISION, ITS DESIGNEE OR ITS**
20 **DESIGNATED PHYSICIAN(S)** Respondent shall appear in person for
21 interviews with the Division, its designee or its designated
22 physician(s) upon request at various intervals and with
23 reasonable notice.

24 11. **TOLLING FOR OUT-OF-STATE PRACTICE, RESIDENCE OR IN-STATE NON-**
25 **PRACTICE** In the event respondent should leave California to
26 reside or to practice outside the State or for any reason should
27 respondent stop practicing medicine in California, respondent

1 shall notify the Division or its designee in writing within ten
2 (10) days of the dates of departure and return or the dates of
3 non-practice within California. Non-practice is defined as any
4 period of time exceeding thirty days in which respondent is not
5 engaging in any activities defined in Sections 2051 and 2052 of
6 the Business and Professions Code. All time spent in an
7 intensive training program approved by the Division or its
8 designee shall be considered as time spent in the practice of
9 medicine. Periods of temporary or permanent residence or
10 practice outside California or of non-practice within California,
11 as defined in this condition, will not apply to the reduction of
12 the probationary period.

13 12. COMPLETION OF PROBATION Upon successful completion
14 of probation, respondent's certificate shall be fully restored.

15 13. VIOLATION OF PROBATION If respondent violates
16 probation in any respect, the Division, after giving respondent
17 notice and the opportunity to be heard, may revoke probation and
18 carry out the disciplinary order that was stayed. If an
19 accusation or petition to revoke probation is filed against
20 respondent during probation, the Division shall have continuing
21 jurisdiction until the matter is final, and the period of
22 probation shall be extended until the matter is final.

23 14. COST RECOVERY The respondent is hereby ordered to
24 reimburse the Division the amount of \$5,000.00 for costs of
25 investigation and prosecution within ninety (90) days of the
26 effective date of this decision. Failure to reimburse the
27 Division's cost of investigation and prosecution shall constitute

1 a violation of the probation order, unless the Division agrees in
2 writing to payment by an installment plan because of financial
3 hardship. The filing of bankruptcy by the respondent shall not
4 relieve the respondent of his responsibility to reimburse the
5 Division for its investigative and prosecution costs.

6 15. **PROBATION COSTS** Respondent shall pay the costs
7 associated with probation monitoring each and every year of
8 probation, which are currently set at \$2,304, but may be adjusted
9 on an annual basis. Such costs shall be payable to the Division
10 of Medical Quality and delivered to the designated probation
11 surveillance monitor at the beginning of each calendar year.
12 Failure to pay costs within 30 days of the due date shall
13 constitute a violation of probation.

14 16. **LICENSE SURRENDER** Following the effective date of
15 this decision, if respondent ceases practicing due to retirement,
16 health reasons or is otherwise unable to satisfy the terms and
17 conditions of probation, respondent may voluntarily tender his
18 certificate to the Board. The Division reserves the right to
19 evaluate the respondent's request and to exercise its discretion
20 whether to grant the request, or to take any other action deemed
21 appropriate and reasonable under the circumstances. Upon formal
22 acceptance of the tendered license, respondent will no longer be
23 subject to the terms and conditions of probation.

24 **CONTINGENCY**

25 This stipulation shall be subject to the approval of
26 the Division. Respondent understands and agrees that Board staff
27 and counsel for complainant may communicate directly with the

1 Division regarding this stipulation and settlement, without
2 notice to or participation by respondent or his counsel. If the
3 Division fails to adopt this stipulation as its Order, the
4 stipulation shall be of no force or effect, it shall be
5 inadmissible in any legal action between the parties, and the
6 Division shall not be disqualified from further action in this
7 matter by virtue of its consideration of this stipulation.

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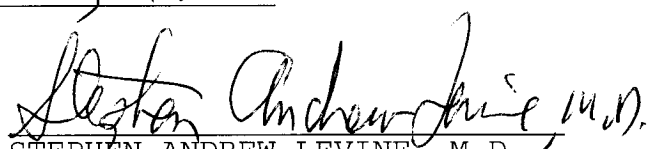
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ACCEPTANCE

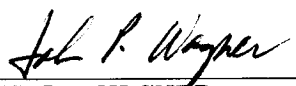
I have read the above Stipulated Settlement and
Disciplinary Order. I have fully discussed the terms and
conditions and other matters contained therein with my attorneys.
I understand the effect this Stipulated Settlement and
Disciplinary Order will have on my practice of medicine, and
agree to be bound thereby. I enter this stipulation freely,
knowingly, intelligently and voluntarily. I further agree that a
facsimile of this signature page shall have the same legal effect
as the original.

DATED: June 27, 1997.


STEPHEN ANDREW LEVINE, M.D.
Respondent

I have read the above Stipulated Settlement and
Disciplinary Order and approve of it as to form and content. I
have fully discussed the terms and conditions and other matters
therein with respondent Stephen Andrew Levine.

DATED: 6-27-97.


JOHN P. WAGNER
Attorney for Respondent

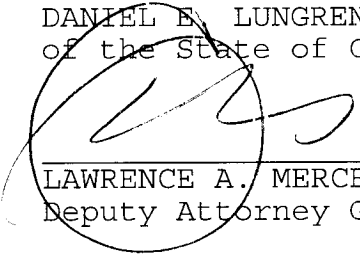
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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for the consideration of the Division of Medical Quality, Medical Board of California, Department of Consumer Affairs.

DATED: June 27, 1997.

DANIEL B. LUNGREN, Attorney General
of the State of California



LAWRENCE A. MERCER
Deputy Attorney General

Attorneys for Complainant

EXHIBIT A

1 DANIEL E. LUNGREN, Attorney General
 2 of the State of California
 3 LAWRENCE A. MERCER
 4 Deputy Attorney General
 5 California Department of Justice
 6 50 Fremont Street, Suite 300
 7 San Francisco, California 94105
 8 Telephone: (415) 356-6259
 9 Telefax: (415) 356-6257

FILED
 STATE OF CALIFORNIA
 MEDICAL BOARD OF CALIFORNIA
 SACRAMENTO February 27 1997
 BY Pamela A. McPherson ANALYST

6 Attorneys for Complainant

REDACTED

BEFORE THE
 DIVISION OF MEDICAL QUALITY
 MEDICAL BOARD OF CALIFORNIA
 DEPARTMENT OF CONSUMER AFFAIRS
 STATE OF CALIFORNIA

11 In the Matter of the Accusation) Case No. 13 95 53779
 12 Against:)
 13 STEPHEN ANDREW LEVINE) ACCUSATION
 14 412 Red Hill Avenue)
 15 San Anselmo, CA 94960)
 16 License No. A22570)
 17 Respondent.)

18 The Complainant alleges:

19 PARTIES

- 20 1. Complainant, Ron Joseph, is the Executive Director
 21 of the Medical Board of California (hereinafter the "Board") and
 22 brings this accusation solely in his official capacity.
- 23 2. On or about July 14, 1967, License No. A22570 was
 24 issued by the Board to Steven Andrew Levine (hereinafter
 25 "respondent"), and at all times relevant to the charges brought
 26 herein, this license has been in full force and effect. Unless
 27 renewed, it will expire on January 31, 1998.

JURISDICTION

3. This accusation is brought before the Division of Medical Quality of the Medical Board of California, Department of Consumer Affairs (hereinafter the "Division"), under the authority of the following sections of the California Business and Professions Code (hereinafter "Code"):

A. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his license revoked, suspended for a period not to exceed one year, placed on probation and ordered to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Division deems proper.

B. Section 2242(a) provides that prescribing, dispensing, or furnishing dangerous drugs as defined in Section 4211 without a good faith prior examination and medical indication therefor, constitutes unprofessional conduct.

C. Section 4211 provides that a dangerous drug is defined as any drug which is unsafe for self-medication and includes any drug or device which by federal or state law can be lawfully dispensed only on prescription or furnished by a laboratory pursuant to Section 4240 of the Business and Professions Code.

4. Section 16.01 of the 1996/1997 Budget Act of the State of California provides, in pertinent part, that:

A. No funds appropriated by this act may be expended to pay any Medi-Cal claim for any service performed by a physician while that physician's license is under suspension or

1 revocation due to a disciplinary action of the medical Board of
2 California; and,

3 B. No funds appropriated by this act may be
4 expended to pay any Medi-Cal claim for any surgical service or
5 other invasive procedure performed on any Medi-Cal beneficiary by
6 a physician if that physician has been placed on probation due to
7 a disciplinary action of the Medical Board of California related
8 to the performance of that specific service or procedure on any
9 patient, except in any case where the Board makes a determination
10 during its disciplinary process that there exist compelling
11 circumstances that warrant continued Medi-Cal reimbursement
12 during the probationary period.

13 5. Section 125.3 provides:

14 (a) That except as otherwise provided by law, in
15 any order issued in resolution of a disciplinary proceeding
16 before any board within the department or before the Osteopathic
17 Medical Board, the board may request the administrative law judge
18 to direct a licentiate found to have committed a violation or
19 violations of the licensing act to pay a sum not to exceed the
20 reasonable costs of the investigation and enforcement of the
21 case.

22 (b) In the case of a disciplined licentiate that
23 is a corporation or a partnership, the order may be made against
24 the licensed corporate entity or licensed partnership.

25 (c) A certified copy of the actual costs, or a
26 good faith estimate of costs where actual costs are not
27 available, signed by the entity bringing the proceeding or its

1 designated representative shall be prima facie evidence of
2 reasonable costs of investigation and prosecution of the case.
3 The costs shall include the amount of investigative and
4 enforcement costs up to the date of the hearing, including, but
5 not limited to, charges imposed by the Attorney General.

6 (d) The administrative law judge shall make a
7 proposed finding of the amount of reasonable costs of
8 investigation and prosecution of the case when requested pursuant
9 to subdivision (a). The finding of the administrative law judge
10 with regard to costs shall not be reviewable by the board to
11 increase the cost award. The board may reduce or eliminate the
12 cost award, or remand to the administrative law judge where the
13 proposed decision fails to make a finding on costs requested
14 pursuant to subdivision (a).

15 (e) Where an order for recovery of costs is made
16 and timely payment is not made as directed in the board's
17 decision, the board may enforce the order for repayment in any
18 appropriate court. This right of enforcement shall be in
19 addition to any other rights the board may have as to any
20 licentiate to pay costs.

21 (f) In any action for recovery of costs, proof of
22 the board's decision shall be conclusive proof of the validity of
23 the order of payment and the terms for payment.

24 (g) (1) Except as provided in paragraph (2), the
25 board shall not renew or reinstate the license of any licentiate
26 who has failed to pay all of the costs ordered under this
27 section.

1 hydrochloride, a sympathomimetic amine. It is related to, and
2 acts similarly to, amphetamine. It is classified as a Schedule
3 III controlled substance pursuant to Health and Safety Code
4 section 11056(b)(2), and is a dangerous drug within the meaning
5 of Business and Professions Code section 4211. The primary use
6 of benzphetamine is as an appetite suppressant, but because it
7 produces stimulant effects similar to those produced by
8 amphetamine, the drug is regarded as having a substantial abuse
9 potential. The medical profession is aware that some
10 recreational drug abusers seek to obtain this drug.

11 FIRST CAUSE FOR DISCIPLINARY ACTION

12 8. On or about August 19, 1993, respondent saw a
13 patient known to him as "D. C." In actuality, this was an
14 alias for an undercover law enforcement officer. "C." told
15 respondent that he suffered from kleptomania and that Didrex and
16 Klonopin had helped him in the past. Notwithstanding the fact
17 that the respondent told "C." that he did not know how
18 Klonopin would help, the respondent issued a prescription for 30
19 2 mg. tablets of Klonopin for "C." In fact, there was no
20 medical indication for a Klonopin prescription, and the issuance
21 of this prescription constitutes a cause for disciplinary action
22 pursuant to Business and Professions Code section 2242(a).

23 9. Respondent again saw "D. C." on August 30,
24 1993. On this occasion, respondent wrote two prescriptions for
25 "C.", a prescription for 30 Didrex 50 mg. tablets, and a
26 prescription for 50 2 mg. Klonopin tablets. Again, there was no
27 medical indication for either prescription. In addition, no

1 symptom described by "C[REDACTED]" could in any way justify a
2 prescription for Didrex, as there is no known relationship
3 between this drug and any symptom described by "Corder."

4 10. Each of the prescriptions described above were
5 written without medical indication and each separately
6 constitutes a basis for disciplinary action pursuant to Business
7 and Professions Code section 2242(a).

8 **SECOND CAUSE FOR DISCIPLINARY ACTION**

9 11. On or about January 18, 1994, respondent wrote a
10 prescription for 30 2 mg. Klonopin tablets for "M[REDACTED] V[REDACTED]."
11 In reality, "M[REDACTED] V[REDACTED]" is an alias for an undercover law
12 enforcement agent. At the time this prescription was written and
13 given to "V[REDACTED]," no legitimate medical purpose had been
14 identified for this prescription.

15 12. On January 27, 1994, respondent wrote another
16 prescription for 30 2 mg. Klonopin tablets to "V[REDACTED]." On this
17 occasion, V[REDACTED] had indicated he wanted these tablets "for fun."

18 13. On March 21, 1995, respondent again wrote a
19 prescription for 30 2 mg. Klonopin tablets for "M[REDACTED] V[REDACTED]."
20 Prior to this time, respondent had stated that he would no longer
21 treat M[REDACTED] V[REDACTED], as it appeared that M[REDACTED] V[REDACTED] had no
22 legitimate medical need for the drug, and appeared to want the
23 prescriptions solely for recreational abuse. Notwithstanding
24 this statement by respondent, and respondent's stated intention
25 that he would no longer prescribe for "V[REDACTED]," respondent wrote
26 this prescription on March 21, 1995 at a time when "V[REDACTED]"
27 presented no symptoms or other medical indication for this drug.


1 14. Each of the prescriptions described above were
2 written without medical indication and each separately
3 constitutes a basis for disciplinary action pursuant to Business
4 and Professions Code section 2242(a).

5 **PRAYER**

6 **WHEREFORE**, the complainant requests that a hearing be
7 held on the matters herein alleged, and that following the
8 hearing, the Division issue a decision:

- 9 1. Revoking or suspending License Number A22570,
10 heretofore issued to respondent Steven Andrew Levine;
- 11 2. If probation is ordered as part of the decision,
12 ordering respondent to pay the costs of probation monitoring as
13 provided by Business and Professions Code section 2227;
- 14 3. Ordering respondent to pay the Division the actual
15 and reasonable costs of the investigation and enforcement of this
16 case;
- 17 4. Taking such other and further action as the
18 Division deems necessary and proper.

19 DATED: February 25, 1997 .

20
21
22 
23 _____
24 Ron Joseph
25 Executive Director
26 Medical Board of California
27 Department of Consumer Affairs
 State of California

Complainant